

Town of Randolph Cable Advisory Committee

September 13, 2006

Response to Docket Number CVT 06-1 Competitive Franchising Rulemaking – Reply Comments

Please note that the responses to the questions asked by the Department of Telecommunications and Energy in its notice dated August 23, 2006 are in bold.

1. Who initially reviews cable license applications on behalf of the Issuing Authority in deciding whether to begin the licensing process pursuant to 207 C.M.R. § 3.02(2)? How soon after receipt of the application does this review begin?

Cable License Applications are typically reviewed by the Cable Advisory Committee and the Board of Selectmen. Since this is a very uncommon process, establishing an exact time line is difficult. Randolph has only reviewed 2 applications in the past 30 years. That said, the Cable Advisory Committee would begin to review any application immediately upon receipt.

2. Has the municipality established a Cable Advisory Committee? Is this a standing committee? When is the committee in session? How often does the committee meet? What are the terms of its members? Who may serve on the committee? How soon after a cable license application is submitted to the municipality does the Cable Advisory Committee receive application materials and begin its review?

Yes, Randolph has a standing Cable Advisory Committee. The Committee meets on an as needed basis, more frequently during the 36 month re-licensing window or during an Initial License Application review to the point of two to three times per week during the last Initial Application that the Town reviewed and subsequently approved. The members of the Committee are appointed by the Board of Selectmen on an annual basis and any resident of the community or who works for the community may be a member.

3. Does the municipality have a city solicitor or town counsel? Who represents the municipality in negotiations with the cable license applicant? How soon after a cable license application is submitted to the municipality does the negotiator receive application materials and commence negotiations? Does the negotiator have direct authority to offer final terms that may be included in a license to be executed by the municipality? If not, please describe the steps necessary to authorize proposed term sheets.

Yes we do have Town counsel. Typically, the Cable Advisory Committee with a liaison from the Board of Selectmen negotiates with the Applicant. Again, since this process is rarely undertaken, an exact time line is difficult but, if memory serves, it was a very short time from the time the Application was received to the commencement of negotiations. The Cable Advisory Committee has had authority to offer terms with the final approval of the Board on Selectmen after a review and discussion with the Committee.

4. Is there any period of time wherein a Mayor or Board of Selectmen lacks authority to execute a contract on behalf of the community? For example, during the time after an election and before the newly elected Mayor takes an oath office, may the out-going Mayor execute a cable license? Please describe the circumstances and the duration of the period.

This would not be applicable to a Board of Selectmen as a voting majority would always be available.

5. Many municipalities commented that 90 days is not sufficient to conduct a review of an initial license application. Please state whether there are any provisions of the current licensing process that may be streamlined and, if so, please identify such provisions.

Many of the municipal government people involved in the assessment of an Initial License Application are volunteers. This includes, in many cases, the Board of Selectmen and the Cable Advisory Committee. It would be very difficult to properly review something as complex as a Cable Television License in 90 days if one were able to devote their entire work day to this process but rarely do we get this luxury. Much of the Selectmen's time has to be devoted to the day to day operation of the Town. The Cable Advisory Committee as a group of volunteers has only limited resources available and must work on their own time. This is not to say that members of both the Board of Selectmen and the Cable Advisory Committee would not devote significant time to such an effort but given all the other demands placed on us, 90 days to completely and thoroughly review an Initial License Application is too short of a window.

Question 5 (continued)

The current 60 day requirement for a decision to proceed or not proceed with an Initial License Application is reasonable given that the Applicant has to file with the Selectmen, the Selectmen will typically have to meet to decide if the Application has merit on face value, if so then contact the Cable Advisory Committee. Once contacted the Cable Advisory Committee has to schedule a meeting and review the Application and finally make a recommendation to the Board of Selectmen to continue or not continue the Application Process.

The 12 month period to give final approval or denial does not seem unreasonable given the ascertainment, public hearings and general negotiations with the Applicant that must take place. There is nothing in the law that prevents a faster approval if the Applicant and the Town reach an agreement sooner. In addition, The Applicant is usually working to establish financing or construction schedules or in the case of Verizon, actually building the FTTP network to provide phone and broadband service to the home before being awarded a final license. Given that the Applicant, and in particular Verizon, can move forward during the licensing process, the current regulations do not seem to be an excessive burden.

Finally, given the fact that the time line for re-licensing an incumbent provider is 36 months, it would seem that a 90 day Initial License Application window would be inadequate to properly protect the public interest.

6. Please provide a typical timeline of all steps necessary to identify the community's cable-related needs and interests and to issue the issuing authority report or request for proposal? Please include intervals between notices and public hearings, as well as the approximate number of days necessary for each step.

Typically the ascertainment process for the cable town's related needs would begin by meeting with town department heads individually or in small groups to see how cable television technology can help meet a need they may have. This process can take 60-90 days alone given conflicting schedules and other priorities. Also during this time, residents are contacted through direct mailing or other means to determine if any current provider they may have is meeting their needs and what could be improved. This type of process tends to take time and another 60-90 days or more could pass before all the results are tabulated. The questions are created from the input of the department heads, the Cable Advisory Committee and also the public hearings that are held. These public hearings run concurrent with the direct mail campaign and can last for several months as they are modified to include any new information from any of the other sources.

Question 6 (continued)

This process is not unlike the one that is currently being played out at the Department of Telecommunications and Energy – Cable Television Division with Docket number CTV06-1. The process of petitions, applications and review take time and, because it happens so infrequently and is so important, it would seem to be in the public interest to proceed with care.

7. Please state the date on which the municipality last conducted a review of its cable-related needs and interests. How often is a full review of cable-related needs and interests necessary? Would any of the intervals identified in the timeline in your response to Question 6 change absent a full review of cable related needs and interest.

Randolph conducted its last review in 1999 for the Application filed by RCN. We are now within the 36 month re-licensing period for our current provider Comcast and have begun a new review. Since it is a complex and time consuming process, it is typically done only during a re-licensing period or an Initial Application. When we conduct a review, it would be a full review using the timeline described in question 6.

8. For communities that have begun the licensing process with Verizon, please provide a detailed timeline of events that have occurred to date. Please provide detail as to when the public hearing is held with respect to the date the proposal was first received.

Randolph has not entered into any negotiations with Verizon at this time. We do however look forward to their Application.

Respectfully Submitted,

Robert W. Stone, Chairman
Randolph Cable Advisory Committee